

§ 217.6

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(d) At least twice annually, in April and in October, each responsible Forest Service officer shall, through FEDERAL REGISTER notice, advise the public of the principal newspaper to be utilized for publishing legal notices required by this section. The FEDERAL REGISTER notice shall also list all additional newspapers which the Deciding Officer expects to use for purposes of providing additional notice pursuant to paragraph (b) of this section.

[54 FR 3357, Jan. 23, 1989, as amended at 55 FR 7895, Mar. 6, 1990; 56 FR 4918, Feb. 6, 1991]

§ 217.6 Participants.

(a) Other than Forest Service employees, any person or any non-Federal organization or entity may challenge a decision covered by this part and request a review by the Forest Service line officer at the next administrative level.

(b) An intervenor as defined in § 217.2 of the subpart.

§ 217.7 Levels of appeal.

(a) *Decisions made by the Chief.* If the Chief of the Forest Service is the Deciding Officer, the notice of appeal is filed with the Secretary of Agriculture. Review by the Secretary is wholly discretionary. Within 15 days of receipt of a notice of appeal, the Secretary shall determine whether or not to review the decision in question. If the Secretary has not decided to review the Chief's decision by the expiration of the 15-day period, the requester(s) shall be notified by the Secretary's office that the Chief's decision is the final administrative decision of the Department of Agriculture. When the Secretary elects to review an initial decision made by the Chief, the Secretary shall conduct the review in accordance with the first level appeal procedures outlined in this rule.

(b) *Decisions made by Forest Supervisors and Regional Foresters.* The levels of available review are as follows:

(1) If the decision is made by a Forest Supervisor, the notice of appeal is filed with the Regional Forester;

(2) If the decision is made by a Regional Forester, the notice of appeal is filed with the Chief of the Forest Service.

(c) *Discretionary review of dismissal decisions.* Dismissal decisions rendered by Forest Service line officers pursuant to this part (§ 217.11) are subject to discretionary review as follows:

(1) If the initial Reviewing Officer was the Regional Forester, the Chief has discretion to review.

(2) If the Reviewing Officer was the Chief, the Secretary of Agriculture has discretion to review.

(d) *Discretionary review of appeal decisions.* Appeal decisions rendered by Regional Foresters and the Chief pursuant to this part are subject to discretionary review as follows:

(1) If the Reviewing Officer was the Regional Forester, the Chief has discretion to review.

(2) If the Reviewing Officer was the Chief, the Secretary of Agriculture has discretion to review.

[54 FR 3357, Jan. 23, 1989, as amended at 54 FR 34509, Aug. 21, 1989; 58 FR 58915, Nov. 4, 1993]

§ 217.8 Appeal process sequence.

(a) *Filing procedures.* To appeal a decision under this part, a person or organization must:

(1) File a written notice of appeal, in duplicate, with the next higher line officer in accordance with the provisions of § 217.9 of this part.

(2) File the notice of appeal within 45 days of the date specified in the published legal notice for non-significant amendments to land and resource management plans documented in a Decision Notice or Record of Decision.

(3) File the notice of appeal within 90 days of the date specified in the published legal notice for land and resource management plan approvals, significant amendments, or revisions, and for other programmatic decisions documented in a Record of Decision.

(b) *Computation of time periods.* (1) The day after the published notices required in § 217.5(b) is the first day of the appeal period provided for in paragraphs (a)(2) and (a)(3) of this section. All other time periods applicable to this part are tied to the filing of a notice of appeal and begin on the first day following that filing.

(2) All time periods in this rule are to be computed using calendar days. Saturdays, Sundays, and Federal holidays